

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK**

MARK A. FAVORS, et al.)	
)	
)	
Plaintiffs,)	
)	
v.)	Case: 1:11-cv-05632-DLI-RLM
)	Date of Service: March 7, 2012
ANDREW M. CUOMO, et al.)	
)	
)	
Defendants.)	
)	

**ANSWER OF DEFENDANTS DEAN G. SKELOS, MICHAEL F. NOZZOLIO,
AND WELQUIS R. LOPEZ TO PLAINTIFFS’ COMPLAINT**

Pursuant to the Court’s Order, Defendants Dean G. Skelos, Michael F. Nozzolio, and Welquis R. Lopez respectfully answer Plaintiffs’ Complaint, filed on November 17, 2011, as follows; any allegations not specifically referenced herein are denied:

INTRODUCTION

1. Defendants deny the allegations of paragraph 1 of the Complaint.
2. Defendants deny the allegations of paragraph 2 of the Complaint.
3. Defendants deny the allegations of paragraph 3 of the Complaint.
4. Defendants deny the allegations of paragraph 4 of the Complaint.
5. Defendants deny the allegations of paragraph 5 of the Complaint. In further

answer, Defendants deny that Plaintiffs are entitled to relief, and state that the Court’s order of referral to Magistrate Judge Roanne L. Mann and appointment of Professor Nathaniel Persily as an expert moot Plaintiffs’ request for a special master.

6. Defendants deny the allegations of paragraph 6 of the Complaint. In further answer, Defendants state that Defendant the New York Legislative Task Force on Demographic

Research and Reapportionment (LATFOR) released the prisoner reallocation data on January 5, 2012, and that Plaintiffs have voluntarily dismissed Counts V and VI of their Complaint, which raised claims regarding the prisoner allocation law (DE 66).

7. Defendants admit that the Legislature passed and the Governor signed into law the prisoner reallocation law. The third sentence of paragraph 7 contains a conclusion of law to which no response is required.

8. Defendants deny the allegations of paragraph 8 of the Complaint.

9. Defendants deny the allegations of paragraph 9 of the Complaint.

10. Defendants deny the allegations of paragraph 10 of the Complaint, and state that Plaintiffs' request for a special master is moot.

11. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 11 and therefore deny them.

12. Defendants deny the allegations of paragraph 12 of the Complaint, and state that Plaintiffs' request for a special master is moot.

13. Defendants deny the allegations of paragraph 13 of the Complaint.

PARTIES

14. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 14 and therefore deny them.

15. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 15 and therefore deny them.

16. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 16 and therefore deny them.

17. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 17 and therefore deny them.

18. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 18 and therefore deny them.

19. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 19 and therefore deny them.

20. Defendants admit the first sentence of paragraph 20. The second sentence expresses Plaintiffs' intention to sue the Governor in his official capacity and requires no responsive pleading.

21. Defendants admit the first sentence of paragraph 21. The second sentence expresses Plaintiffs' intention to sue the Attorney General in his official capacity and requires no responsive pleading.

22. Defendants admit the first sentence of paragraph 22. The second sentence expresses Plaintiffs' intention to sue the Lieutenant Governor in his official capacity and requires no responsive pleading.

23. Defendants admit the first sentence of paragraph 23. The second sentence expresses Plaintiffs' intention to sue Defendant Skelos in his official capacity and requires no responsive pleading.

24. Defendants admit the first sentence of paragraph 24. The second sentence expresses Plaintiffs' intention to sue Assembly Speaker Silver in his official capacity and requires no responsive pleading.

25. Defendants admit the first sentence of paragraph 25. The second sentence expresses Plaintiffs' intention to sue Senate Minority Leader Sampson in his official capacity and requires no responsive pleading.

26. Defendants admit the first sentence of paragraph 26. The second sentence expresses Plaintiffs' intention to sue Assembly Minority Leader Kolb in his official capacity and requires no responsive pleading.

27. Defendants admit the allegations of paragraph 27.

28. Defendants admit the first sentence of paragraph 28. The second sentence expresses Plaintiffs' intention to sue Defendant Nozzolio, Defendant Lopez, John J. McEneny, Robert Oaks, Roman Hedges, and Martin Malave Dilan in their official capacity and requires no responsive pleading.

JURISDICTION AND VENUE

29. Defendants admit that the Court has subject matter jurisdiction over the allegations in Plaintiffs' Complaint, but deny that Plaintiffs are entitled to relief.

30. Defendants admit that Plaintiffs attempt to assert a Voting Rights Act claim against Defendants and that this Court has subject matter jurisdiction over that claim. Defendants deny that Plaintiffs are entitled to relief.

31. Defendants admit that Plaintiffs attempt to assert a declaratory judgment claim against Defendants and that this Court has subject matter jurisdiction over that claim. Defendants deny that Plaintiffs are entitled to relief.

32. Defendants admit that Plaintiffs attempt to assert state-law claims against Defendants and that this Court has subject matter jurisdiction over those claims. Defendants

deny that Plaintiffs are entitled to relief, and further state that Plaintiffs have voluntarily dismissed Counts V and VI of the Complaint.

33. Defendants admit that venue is proper in the Eastern District of New York.

34. Paragraph 34 contains conclusions of law to which no response is required. To the extent a response is required, Defendants admit that a three-judge Court has been convened to adjudicate this case.

FACTUAL ALLEGATIONS

35. Paragraph 35 contains conclusions of law to which no responsive pleading is required.

36. Paragraph 36 contains conclusions of law to which no responsive pleading is required.

37. Defendants admit the allegations of paragraph 37.

38. Defendants admit the allegations of paragraph 38.

39. Defendants admit the allegations of paragraph 39, and further state that LATFOR's website speaks for itself and in plain English.

40. Defendants admit that the New York Legislature must enact a redistricting bill in order for it to become law. Defendants further state that a redistricting bill must be presented to the Governor, and that if the Governor signs it, it becomes law. Defendants further aver that, if the Governor does not sign the bill, under the New York Constitution it is returned to the Legislature for reconsideration and can become law, notwithstanding the Governor's failure to sign it, if it is approved by two-thirds of each house of the Legislature. Defendants deny that a redistricting plan adopted by this Court must be approved by the Legislature and the Governor. Defendants admit the second sentence of paragraph 40.

41. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 41 and therefore deny them.

42. Defendants admit that computer software and voter databases are used in the redistricting process. Defendants deny the remaining allegations of paragraph 42.

43. Defendants deny the allegations of the first two sentences of paragraph 43. Defendants lack sufficient information to form a belief as to the truth or falsity of the remaining allegations of paragraph 43 and therefore deny them.

44. Defendants admit that two-thirds of LATFOR members are sitting legislators, but otherwise deny the first three sentences of paragraph 44. Defendants admit that memoranda titled “Size of the Senate” and “The 135” were written, and state that those memoranda speak for themselves. To the extent Plaintiffs mischaracterize the content or import of those memoranda, Defendants deny the same.

45. Defendants state that the memoranda speak for themselves. To the extent Plaintiffs mischaracterize the content or import of those memoranda, Defendants deny the same.

46. Defendants deny the allegations of paragraph 46.

47. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations in paragraph 47 regarding “[i]ndependent redistricting proposals” and therefore deny them.

48. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations in paragraph 48 regarding “fair redistricting proposals” and therefore deny them.

49. Defendants admit that population equality is a traditional redistricting criterion and a constitutional requirement for legislative districts. To the extent Paragraph 49 contains conclusions of law, no response is required. Defendants lack sufficient information to form a

belief as to the truth or falsity of the allegations regarding “fair redistricting proposals” and therefore deny them.

50. Defendants admit that contiguity is a traditional redistricting criterion, and state that the New York Constitution speaks for itself. To the extent Paragraph 50 contains conclusions of law, no response is required.

51. Defendants admit that the Voting Rights Act has application to redistricting plans, and state that the Voting Rights Act speaks for itself. To the extent Plaintiffs mischaracterize the terms or import of the Voting Rights Act, Defendants deny the same. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations regarding “[f]air representation of minority groups” and therefore deny them.

52. Defendants admit that respect for political subdivisions is a traditional redistricting criterion, and state that the New York Constitution speaks for itself. To the extent Paragraph 52 contains conclusions of law, no response is required.

53. Defendants admit that compactness is a traditional redistricting criterion, and state that the New York Constitution speaks for itself. To the extent Paragraph 53 contains conclusions of law, no response is required.

54. Defendants admit that preservation of communities of interest is a traditional redistricting criterion. To the extent Paragraph 54 contains conclusions of law, no response is required.

55. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations regarding “the interests of justice,” deny that “the interests of justice” is a governing standard for redistricting, and therefore deny the allegations of paragraph 55.

56. Defendants admit that New York Uprising asked candidates for the New York Legislature to sign a pledge regarding “non-partisan, independent redistricting,” and state that the pledge speaks for itself. To the extent Plaintiffs mischaracterize the terms or import of the pledge, Defendants deny the same.

57. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations in the first sentence of paragraph 57 and therefore deny them. Defendants deny the allegations in the second sentence of paragraph 57.

58. Defendants deny that any legislative process has broken down, and deny that Plaintiffs are entitled to relief. Defendants deny the remaining allegations of paragraph 58.

59. Defendants admit the allegations of paragraph 59.

60. Paragraph 60 contains conclusions of law to which no response is required. Defendants further state that the New York Constitution speaks for itself.

61. Paragraph 61 contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations of Paragraph 61.

62. Paragraph 62 contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations of Paragraph 62.

63. Defendants admit the allegations of paragraphs 63, but deny that Plaintiffs are entitled to relief.

64. Paragraph 64 contains conclusions of law to which no response is required.

65. Defendants admit the allegations of paragraph 65.

66. Defendants admit that adherence to New York’s existing House of Representatives districts would give New York two more seats than it is entitled to fill. The remaining allegations of paragraph 66 contain conclusions of law to which no response is

required. To the extent a further response is required, Defendants deny the allegations of paragraph 66.

67. Paragraph 67 contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations of paragraph 67.

68. Defendants admit the allegations of paragraph 68.

69. Defendants admit that Governor Andrew M. Cuomo campaigned for governor in 2010, but lack sufficient information to form a belief as to the truth or falsity of the allegations of the remaining allegations in paragraph 69 and therefore deny them.

70. Defendants admit that Governor Cuomo has proposed the Redistricting Reform Act of 2011 and that the bill has not received a vote in either chamber of the New York Legislature.

71. Defendants state that the Governor's statement "[i]n announcing the bill" speaks for itself. To the extent Plaintiffs mischaracterize that statement, Defendants deny the same.

72. Defendants state that the Governor's statement speaks for itself. To the extent Plaintiffs mischaracterize that statement, Defendants deny the same.

73. Defendants state that the Governor's statement speaks for itself. To the extent Plaintiffs mischaracterize that statement, Defendants deny the same.

74. Defendants state that the Governor's statements speak for themselves. To the extent Plaintiffs mischaracterize any or all such statements or their import, Defendants deny the same.

75. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations in paragraph 75 regarding "fair redistricting proposals" and therefore deny them.

76. Defendants deny the allegations of paragraph 76.

77. Paragraph 77 contains conclusions of law to which no response is required.

Defendants further state that the federal Military and Overseas Voter Empowerment Act (MOVE Act) speaks for itself. To the extent Plaintiffs mischaracterize the MOVE Act, Defendants deny the same. Defendants deny any remaining allegations in paragraph 77.

78. Defendants deny the allegations of paragraph 78 and aver that the Northern District of New York has scheduled New York's federal legislative (i.e., Congressional) primaries for June 26, 2012.

79. Defendants deny the allegations of paragraph 79.

80. Defendants deny the allegations of paragraph 80.

81. Defendants admit that Defendant Skelos's campaign committee made expenditures for the election in 2010, a non-redistricting year. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations regarding Assembly Speaker Silver in paragraph 81 and therefore deny them. Defendants deny the remaining allegations of paragraph 81.

82. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations contained in paragraph 82.

83. Defendants deny the allegations of paragraph 83.

84. Defendants deny the allegations of paragraph 84.

85. Paragraph 85 contains conclusions of law to which no response is required.

Defendants state that the prisoner reallocation law speaks for itself. To the extent Plaintiffs mischaracterize the prisoner allocation law, Defendants deny the same.

86. Paragraph 86 contains conclusions of law to which no response is required. Defendants state that the prisoner reallocation law speaks for itself. To the extent Plaintiffs mischaracterize the prisoner allocation law, Defendants deny the same.

87. Paragraph 87 contains conclusions of law to which no response is required. Defendants state that the prisoner reallocation law speaks for itself. To the extent Plaintiffs mischaracterize the prisoner allocation law, Defendants deny the same.

88. Paragraph 88 contains conclusions of law to which no response is required. Defendants state that the prisoner reallocation law speaks for itself. To the extent Plaintiffs mischaracterize the prisoner allocation law, Defendants deny the same. To the extent any further response is required, Defendants admit that the Department of Correctional Services and Community Supervision transmitted data to LATFOR.

89. Paragraph 89 contains conclusions of law to which no response is required. Defendants state that the prisoner reallocation law speaks for itself. To the extent Plaintiffs mischaracterize the prisoner allocation law, Defendants deny the same.

90. Defendants deny the first sentence of paragraph 90. Defendants further state that the statements of Roman Hedges, LATFOR's Assembly Majority, and Defendant Nozzolio speak for themselves. To the extent Plaintiffs mischaracterize any or all such statements, Defendants deny the same.

91. Defendants deny the allegations of paragraph 91, and deny that Plaintiffs are entitled to relief.

92. Defendants deny the allegations of paragraph 92.

93. Defendants deny the allegations of paragraph 93.

94. Defendants admit that LATFOR's process in connection with redistricting involves several steps, but deny that paragraph 94 accurately and completely describes all such steps.

95. Defendants deny the allegations of paragraph 95.

96. Defendants admit that LATFOR held a public meeting on November 2, 2011, and that LATFOR has completed its first round of hearings.

97. Paragraph 97 contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations of paragraph 97.

98. Defendants deny the allegations of paragraph 98, and deny that Plaintiffs are entitled to relief.

99. Defendants admit the allegations of paragraph 99.

100. Paragraph 100 contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations of paragraph 100.

101. Defendants state that the Voting Rights Act speaks for itself. To the extent Plaintiffs mischaracterize the terms or import of the Voting Rights Act, Defendants deny the same. Defendants deny the remaining allegations of paragraph 101.

102. Defendants state that the prisoner reallocation law speaks for itself. To the extent Plaintiffs mischaracterize the terms or import of the prisoner reallocation law, Defendants deny the same. Defendants deny the remaining allegations of paragraph 102.

103. Defendants deny the allegations of paragraph 103.

104. Defendants deny the allegations of paragraph 104.

105. Defendants deny the allegations of paragraph 105, and deny that Plaintiffs are entitled to relief.

COUNT I

106. Defendants incorporate by reference their response to the allegations contained in the Complaint set forth above as if fully restated herein.

107. Defendants admit the first sentence of paragraph 107. The second sentence of paragraph 107 contains a conclusion of law to which no response is required.

108. Paragraph 108 contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations as not ripe and deny that Plaintiffs are entitled to relief.

109. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 109 and therefore deny them.

110. Paragraph 110 contains conclusions of law to which no response is required. To the extent Plaintiffs mischaracterize the prisoner allocation law, Defendants deny the same. Defendants deny the third sentence of paragraph 110.

111. Defendants deny the allegations of paragraph 111.

112. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 112 and therefore deny them.

113. Defendants deny the allegations of paragraph 113, and further state that Plaintiffs' allegations are not ripe.

114. Defendants deny the allegations of paragraph 114, and further state that Plaintiffs' allegations are not ripe.

115. Defendants deny the allegations of paragraph 115, and deny that Plaintiffs are entitled to relief.

116. Defendants deny the allegations of paragraph 116, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

117. Defendants deny the allegations of paragraph 117, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

118. Defendants deny the allegations of paragraph 118, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

COUNT II

119. Defendants incorporate by reference their response to the allegations contained in the Complaint set forth above as if fully restated herein.

120. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations in paragraph 120 and therefore deny them.

121. Defendants deny that LATFOR has failed to count prisoners in their home communities rather than in their prison communities. Defendants lack sufficient information to form a belief as to the truth or falsity of the remaining allegations of paragraph 121 and therefore deny them.

122. Paragraph 122 contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations of paragraph 122.

123. Defendants deny the allegations of paragraph 123, and deny that Plaintiffs are entitled to relief.

124. Defendants deny the allegations of paragraph 124, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

125. Defendants deny the allegations of paragraph 125, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

126. Defendants deny the allegations of paragraph 126, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

COUNT III

127. Defendants incorporate by reference their response to the allegations contained in the Complaint set forth above as if fully restated herein.

128. Defendants admit that New York's current districts for the United States House of Representatives are too numerous by two seats. The remaining allegations in paragraph 128 contain conclusions of law to which no response is required.

129. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 129 and therefore deny them.

130. Defendants deny the allegations of paragraph 130.

131. Defendants deny the allegations of paragraph 131, and deny that Plaintiffs are entitled to relief.

132. Defendants deny the allegations of paragraph 132, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

133. Defendants deny the allegations of paragraph 133, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

134. Defendants deny the allegations of paragraph 134, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

COUNT IV

135. Defendants incorporate by reference their response to the allegations contained in the Complaint set forth above as if fully restated herein.

136. Paragraph 136 contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations of paragraph 136.

137. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 137 and therefore deny them.

138. Defendants deny the allegations of paragraph 138.

139. Defendants deny the allegations of paragraph 139, and deny that Plaintiffs are entitled to relief.

140. Defendants deny the allegations of paragraph 140, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

141. Defendants deny the allegations of paragraph 141, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

142. Defendants deny the allegations of paragraph 142, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

COUNT V

143. Defendants incorporate by reference their response to the allegations contained in the Complaint set forth above as if fully restated herein. Defendants further state that Plaintiffs have voluntarily dismissed Count V of their Complaint.

144. Paragraph 144 contains conclusions of law to which no response is required. To the extent Plaintiffs mischaracterize the prisoner allocation law, Defendants deny the same. Defendants deny the third sentence of paragraph 144.

145. Paragraph 145 contains conclusions of law to which no response is required. To the extent Plaintiffs mischaracterize the prisoner allocation law, Defendants deny the same. Defendants deny the second sentence of paragraph 145.

146. Paragraph 146 contains conclusions of law to which no response is required. To the extent Plaintiffs mischaracterize the prisoner allocation law, Defendants deny the same.

Defendants deny the second sentence of paragraph 146.

147. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 147 and therefore deny them.

148. Defendants deny the allegations of paragraph 148 and deny that Plaintiffs are entitled to relief.

149. Defendants deny the allegations of paragraph 149, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

COUNT VI

150. Defendants incorporate by reference their response to the allegations contained in the Complaint set forth above as if fully restated herein. Defendants further state that Plaintiffs have voluntarily dismissed Count VI of their Complaint.

151. Defendants admit that the Department of Justice granted preclearance of the prisoner reallocation law. The remaining allegations in paragraph 151 contain conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations of paragraph 151.

152. Paragraph 152 contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations of paragraph 152.

153. Paragraph 153 contains conclusions of law to which no response is required. To the extent a response is required, Defendants deny the allegations of paragraph 153.

154. Defendants deny the allegations of paragraph 154 and deny that Plaintiffs are entitled to relief.

155. Defendants deny the allegations of paragraph 155, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

COUNT VII

156. Defendants incorporate by reference their response to the allegations contained in the Complaint set forth above as if fully restated herein.

157. Defendants lack sufficient information to form a belief as to the truth or falsity of the allegations of paragraph 157 regarding Plaintiffs' citizenship and therefore deny them. Defendants deny the remaining allegations of paragraph 157.

158. Defendants deny the allegations of paragraph 158, and deny that Plaintiffs are entitled to relief.

RELIEF SOUGHT

1. Defendants deny the allegations of paragraph 1 of Plaintiffs' prayer for relief, and deny that Plaintiffs are entitled to relief.

2. Defendants deny the allegations of paragraph 2 of Plaintiffs' prayer for relief, and deny that Plaintiffs are entitled to relief.

3. Defendants deny the allegations of paragraph 3 of Plaintiffs' prayer for relief, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

4. Defendants deny the allegations of paragraph 4 of Plaintiffs' prayer for relief, and deny that Plaintiffs are entitled to relief.

5. Defendants deny the allegations of paragraph 5 of Plaintiffs' prayer for relief, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

6. Defendants deny the allegations of paragraph 6 of Plaintiffs' prayer for relief, deny that Plaintiffs are entitled to relief, and further state that Plaintiffs' request for a special master is moot.

7. Defendants deny the allegations of paragraph 7 of Plaintiffs' prayer for relief, and deny that Plaintiffs are entitled to relief.

8. Defendants deny the allegations of paragraph 8 of Plaintiffs' prayer for relief, and deny that Plaintiffs are entitled to relief.

AFFIRMATIVE DEFENSES

Without assuming the burden of proof, Defendants assert the following affirmative defenses:

FIRST AFFIRMATIVE DEFENSE

(Failure To State A Claim)

Plaintiffs have failed to allege sufficient facts upon which a claim for relief may be granted.

SECOND AFFIRMATIVE DEFENSE

(Standing)

Plaintiffs lack standing to assert their claims.

THIRD AFFIRMATIVE DEFENSE

(Lack Of Justiciable Controversy)

Plaintiffs fail to raise a justiciable controversy between Plaintiffs and Defendants because Plaintiffs' claims are not ripe and/or are moot.

FOURTH AFFIRMATIVE DEFENSE

(Abstention)

The Court must abstain from resolving any justiciable controversy because Plaintiffs' claims are premature as the Legislature has sufficient time to enact redistricting legislation.

WHEREFORE, Defendants respectfully request that the Court:

1. Dismiss Plaintiffs' claims with prejudice and enter judgment for Defendants; and
2. Grant such other relief to Defendants as the Court may deem just and proper.

Dated: March 7, 2012

Respectfully submitted,

/s/Michael A. Carvin

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CERTIFICATE OF SERVICE

I hereby certify that, on this 7th day of March, 2012, a true and correct copy of the foregoing was served on the following counsel of record through the Court's CM/ECF system:

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